

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

JANE PLATTEN,

Plaintiff,

and

DEAN HEALTH PLAN,

Involuntary Plaintiff,

v.

Case No. 20-C-1265

SMITH & NEPHEW INC.,
SMITH & NEPHEW PLC,
SMITH & NEPHEW LTD., and
ABC INSURANCE COMPANY,

Defendants.

ORDER TO SUPPLEMENT RECORD

Plaintiff Jane Platten brought this action against a corporation, Smith and Nephew, Inc., and two business entities headquartered in the United Kingdom, Smith & Nephew PLC and Smith & Nephew Ltd. Defendants removed the case from Brown County Circuit Court to this court, asserting federal jurisdiction under 28 U.S.C. § 1332. The court addressed jurisdiction at a September 25, 2020 scheduling conference and was assured by Defendants that each of the United Kingdom business entities was not in fact a citizen of Wisconsin and that complete diversity jurisdiction existed. Defendants, however, have not supplemented the record in any way that substantiates their assertion. The Seventh Circuit has repeatedly emphasized that determining the citizenship of unincorporated foreign business entities first requires analyzing whether the business entity is equivalent to a corporation. *See White Pearl Inversiones S.A. (Uruguay) v. Cemusa, Inc.*,

647 F.3d 684, 686–88 (7th Cir. 2011). In the event the business entity is not equivalent to a corporation, the court must examine the citizenship of the entities’ investors or members. *See id.* at 686–88; *Lear Corp. v. Johnson Elec. Holdings Ltd.*, 353 F.3d 580 (7th Cir. 1993).

Based upon the foregoing, unless the record provides an evidentiary basis for the court to conclude that subject matter jurisdiction exists, the court would have no choice but to remand the action to state court. Defendants will be given the opportunity to supplement the record to establish the facts needed to support their assertion that federal jurisdiction exists under § 1332. Within fourteen days of the date of this order, Defendants must supplement the record by providing evidence sufficient to conclude that there is complete diversity of citizenship among the parties.

SO ORDERED at Green Bay, Wisconsin this 12th day of January, 2023.

s/ William C. Griesbach

William C. Griesbach
United States District Judge